

PROFFERS
PROSPERITY METRO PLAZA
RZ/FDP 2012-PR-009
September 19, 2012

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), Prosperity Metro Plaza of Virginia, LLC, for itself and its successors and/or assigns (hereinafter referred to as the "Applicant"), hereby proffers that the expansion of Prosperity Metro Plaza on the parcels under consideration and shown on the Fairfax County Tax Map as Tax Map 49-1 ((13)) 19B and an approximately 10,855 square foot portion of Dorr Avenue (Route 4605) to be vacated (collectively, the "Property") shall be in accordance with the following conditions if, and only if, Rezoning application RZ/FDP 2012-PR-009 for PDC zoning for the Property is granted by the Board of Supervisors of Fairfax County, Virginia (the "Board"). In the event that application is denied or the Board's approval of it is overturned by a court of competent jurisdiction, these proffers shall be null and void. Approval of this Rezoning application shall supersede and replace the prior approval of RZ 88-P-030 for a portion of the Property, and all proffers, conditions, and development plans associated therewith shall be null and void.

INTRODUCTION

1. Conceptual/ Final Development Plan. Prosperity Metro Plaza, which currently consists of two (2) buildings and a parking structure, shall be expanded in phases in substantial conformance with the Conceptual Development Plan ("CDP") and Final Development Plan ("FDP") entitled "PROSPERITY METRO 2675 & 2677 Prosperity Avenue" dated March 7, 2012 and revised through July 31, 2012, prepared by Walter L. Phillips, Inc., consisting of Sheets P-0101 through P-0602.

2. Elements of CDP. Notwithstanding the fact that the CDP and FDP are presented on the same plan, the elements that are components of the CDP are limited to the perimeter points of access, the location of the buildings and amount and location of open space, uses, building heights, and setbacks from the peripheral lot lines, and a modification to such elements shall require a subsequent Conceptual Development Plan Amendment or a Proffered Condition Amendment ("PCA"). The Applicant reserves the right to request a Final Development Plan Amendment for elements other than CDP elements from the Planning Commission for all or a portion of the FDP in accordance with Section 16-402 of the Zoning Ordinance if such an amendment is in accordance with these Proffers as determined by the Zoning Administrator.

3. Minor Modifications. Pursuant to Paragraph 4 of Section 16-403.4 of the Zoning Ordinance, minor modifications to the CDP/FDP may be permitted as determined by the Zoning Administrator. At the time of site plan approval, the Applicant shall have the flexibility to modify the layout shown for the improvements proposed by this Application on the CDP/FDP without requiring approval of an amended CDP/FDP provided that such changes are in substantial conformance with the CDP/FDP as determined by the Zoning Administrator in accordance with the standards set out in Paragraph 4 of Section 16-403 of the Zoning Ordinance.

PHASING

4. First Phase. The first phase of development shall not include any increase in the gross floor area of the existing development. The first phase of the expansion shall include the construction of the new surface parking spaces, the new plaza area, and driveways in the southwestern portion of the Property, the closing of the Prosperity Avenue access point at the northwestern corner of the Property, and the dedication of three portions of the Property for public street purposes, all generally as shown on Sheet P-0301 of the CDP/FDP, and the planting on the Property of the new landscaping materials in the southwestern portion of the Property and along the Property's Prosperity Avenue frontage, generally as shown on Sheet P-0401 of the CDP/FDP. The first phase of development will take place in connection with the extension of Dorr Avenue to Prosperity Avenue by others, as proffered in conjunction with RZ 2009-PR-002.

5. Later Phase. In a later phase (or possibly later phases) of the expansion, the Applicant may increase the gross floor area of the existing development by increasing the height of either or both of the two existing buildings on the Property ("GFA Expansion"). In no event shall the total gross floor area on the Property exceed 361,440 square feet, excluding cellars, and in no event shall the height of either building exceed 135 feet. Building height shall be measured in accordance with the provisions of the Zoning Ordinance and shall not include those structures excluded from the maximum height regulations as set forth in Section 2-506 of the Zoning Ordinance. Sheets P-0601 and P-0602 of the CDP/FDP are an illustration of how the two existing buildings may be increased in height and of possible architecture and materials. The architecture and materials of the new construction will be compatible with the architecture and materials of the existing buildings.

USES

6. General. All principal and secondary uses referred to below shall be deemed to be "specifically designated on the FDP" such that approval of a separate special exception shall not be required to initiate such use on the Property pursuant to Section 6-205 of the Zoning Ordinance. There shall be no drive-through use in either building.

7. Principal Uses. The primary principal use shall be office. Other principal uses may include the following, in accordance with the use limitations in Section 6-206 of the Zoning Ordinance:

- Business service and supply service establishments
- Eating establishments
- Financial institutions
- Personal service establishments
- Retail sales establishments

8. Secondary Uses. The secondary uses may include the following:

- Fast food restaurants with seasonal outdoor seating, total seating not to exceed 70

- Quick service food stores
- Health clubs
- Colleges, universities
- Medical care facilities
- Private schools of special education
- Commercial parking

The secondary uses shall be permitted only if there is one or more principal use on the Property, and they shall be in accordance with the use limitations in Section 6-206.

9. Combinations of Uses. The initial uses anticipated for the development are offices, a fast food restaurant with a maximum of 70 seats, and commercial parking, all of which are noted on the parking tabulation on Sheet P-0101 of the CDP/FDP. (There will also be a health club restricted to the employees of tenants in the buildings.) In the event this combination of uses changes, a revised parking tabulation shall be submitted to the Department of Public Works and Environmental Services ("DPWES") for approval.

10. Other Uses. Other principal and secondary uses permitted in the PDC District that are not specifically listed in Proffers 7 and 8 may be permitted with the approval of a PCA, CDPA/FDPA and/or a special exception or special permit, as required. A PCA and CDPA/FDPA shall not be required as long as the proposal remains in substantial conformance with the CDP.

11. Telecommunication Facilities. Telecommunication facilities may be placed on the Property, including placement on the buildings or the parking structure, without the need for a PCA, provided such facilities are in compliance with Section 2-514. In the event any telecommunications facility/equipment is proposed to be placed on the Property, an application for the proposed facility/equipment, including related antennas and equipment cabinets, shall be submitted to Fairfax County for review by appropriate County agencies and a determination pursuant to Section 15.2-2232 of the Code of Virginia as to whether the proposed facility/equipment is in substantial accord with the Comprehensive Plan.

PARKING

12. Parking Reduction. The Applicant has requested a reduction in the required parking spaces in accordance with Section 11-102 of the Zoning Ordinance. If the reduction is not approved, the parking required for the GFA Expansion will be reduced either by reducing the total number of seats permitted at the fast food restaurant or by reducing the total amount of office square footage in order that the parking provided either exceeds or equals the parking required.

13. Commercial Parking. Any excess parking spaces on the Property, *i.e.* parking spaces not required for the uses on the Property, as that requirement may be reduced by the DPWES in accordance with Section 11-102 of the Zoning Ordinance, may be used for commercial parking. The excess number of parking spaces available for commercial parking may change over time depending upon later combinations of uses on the Property and

concomitant parking reduction revisions.

SIGNAL EASEMENT

14. At such time as requested by the Fairfax County Department of Transportation ("FCDOT") or the Virginia Department of Transportation ("VDOT"), the Applicant shall convey at appropriate locations on the Property easement(s) for signalization and associated signal equipment at the western entrance to the development across Prosperity Avenue from the Property.

CONTRIBUTION

15. Off-Site Parks and Recreation. The Applicant shall contribute \$0.27/square foot of GFA Expansion to the Fairfax County Park Authority ("FCPA") for use at off-site parks and recreational facilities in the area of the Property, as determined by FCPA in consultation with the Supervisor for the Providence District. The contribution shall be made prior to the issuance of the first NRUP for GFA Expansion space.

16. Transportation. The Applicant shall contribute to Fairfax County \$10,000.00 to be used for transportation improvements in the immediate vicinity of the Property, as determined by FCDOT in consultation with the Supervisor of the Providence District and the Applicant. The contribution shall be made prior to the issuance of the first NRUP for GFA Expansion space.

ENVIRONMENT

17. Supplemental Landscaping. Supplemental landscaping, including streetscape, shall be provided as shown on Sheet P-0401 of the CDP/FDP. Adjustments as to the landscape design and the type and location of vegetation shall be permitted if approved by Urban Forestry ("UFMD"). The Applicant shall install supplemental groundcover, understory plantings, ornamental shrubs and/or flowering plants within the landscape strip of the Prosperity Avenue streetscape, subject to review and approval by UFMD.

As part of each site plan submission, the Applicant shall submit to UFMD for review and approval a detailed landscape and tree cover plan consistent with the CDP/FDP which shall include, among other things:

- Design details for tree wells and/or similar planting areas above structures and along streets
- Composition of the planting materials and/or structural soils to be used where plantings are to be located on top of structures or along streets and the methods to be used to ensure the viability of the proposed plantings
- Such other information as may be requested by UFMD

18. Roofs. At least 75% of each roof of the GFA Expansion shall be a "white roof", *i.e.* shall consist of a roofing membrane with a Solar Reflectance Index ("SRI") appropriate to the slope of the roof (*e.g.* for a low sloped roof (<2:12) an SRI equal to or greater than 78, and for a high sloped roof (>2:12) an SRI equal to or greater than 29), as shall be verified by the project's architect or engineer. In the event the Applicant commits to an alternative roofing system utilizing the best practices, materials and systems in energy efficient roofing available at the time and the Zoning Administrator finds it to be an effective substitute, consistent with Fairfax County's goals for energy efficiency and protection of the environment, that alternative may be substituted for the white roofs.

19. Roof Insulation. The insulation of the roofs of the GFA Expansion shall exceed by at least 5% the requirements of the Fairfax County Building Code, as shall be verified by the project's architect or engineer.

TRANSPORTATION DEMAND MANAGEMENT ("TDM")

20. TDM Plan and Transportation Coordinator. Within seven (7) months of approval of RZ/FDP 2012-PR-009, the Applicant shall designate a transportation coordinator (the "TC") and shall prepare and submit a TDM Plan to FCDOT. The goal of the TDM Plan shall be to reduce the number of weekday peak hour trips by at least 40% (the "Goal"). The components of the TDM Plan shall include, but not be limited to, the following:

- Preferential designated parking spaces for car-sharing (*e.g.* carpool) vehicles;
- Display in the buildings or on a website of information regarding Metro, Metrobus, Fairfax Connector, carpool, and other relevant transit options;
- Secure bike storage for employees on the Property and bike racks for visitors in either a visitor parking area or in the vicinity of each building's main entrance. The secure bike storage and visitor bicycle racks shall be in convenient locations, as determined by the Applicant in consultation with the FCDOT;
- An incentive program for transit ridership, including the one-time provision of Smart Cards loaded with a minimum amount of \$25 to each employee on the Property who indicates an interest in "trying transit".
- Participation in a larger Transportation Management Association, should one be established for this area.

The TDM Plan shall be submitted to FCDOT for review and approval within seven (7) months of approval of RZ/FDP 2012-PR-009, and FCDOT shall respond to the proposed TDM Plan within 45 days of its receipt. FCDOT's failure to respond within this timeframe shall be deemed its approval of the TDM Plan.

The TC shall oversee, monitor, and coordinate the TDM Plan and act as the liaison between the Applicant and the FCDOT. The TC's duties may be part of other duties carried out by the

designated individual. The Applicant shall notify FCDOT within ten (10) days of the TC's appointment and whenever a new TC is designated.

21. Monitoring.

a. Baseline. For the purposes of these proffers, the baseline number of trips against which reductions are measured shall be determined by using the trip generation rate data published by the Institute of Transportation Engineers 8th Edition and as determined by FCDOT for the existing buildings and the GFA Expansion on the Property during the highest weekday peak hour period (AM or PM) of the adjacent street, Prosperity Avenue.

b. Counts. The Applicant shall measure actual trip generation of the Property in order to evaluate its success in meeting the Goal set forth in Proffer 17 above. The peak hour counts shall be conducted during the highest weekday traffic period ("Peak Hour Trips") over one (1) day, at a time of year between September 15 and November 15 that reflects typical travel demand conditions (*e.g.* not during holiday weeks or when public schools are not in session.) The Applicant shall notify FCDOT at least one (1) week in advance of the date that the counts are to be undertaken. The results of the trip generation traffic counts will be compared to the baseline trip generation number to determine if the Goal has been met.

c. Timing of Counts. (i) The first count will be taken within one year of approval of RZ/FDP 2012-PR-009. In the event the traffic count reveals that the Goal has been met, then the Applicant shall continue to implement the TDM strategies in place and no adjustments to the program shall be required.

(ii) If the first time traffic count reveals that the Goal has not been met, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic count to review the results of that count and the TDM strategies then in place for the Property. The TC shall be responsible for designing and implementing a strategy that is intended to bring the peak hour trip reduction in line with the proffered percentage. The Applicant shall submit any revisions to the TDM Plan to FCDOT for review and approval within fifteen (15) days following this meeting. FCDOT shall respond within thirty (30) days of its receipt of the revised TDM Plan. Its failure to do so shall be deemed its approval of the revised TDM Plan.

(iii) If the second annual traffic count reveals that the Goal has not been met, then the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic count to review the results of that count and the TDM strategies then in place for the Property. The TC shall be responsible for designing and implementing a strategy that is intended to bring peak hour trip reduction in line with the proffered percentage using, as necessary, funds from the TDM Remedy Fund referred to in Proffer 22 below. The Applicant shall submit any revisions to the TDM Plan to FCDOT for review and approval within fifteen (15) days following this meeting. FCDOT shall respond within thirty (30) days of its receipt of the revised TDM Plan. Its failure to do so shall be deemed its approval of the revised TDM Plan.

(iv) If the following (third) annual traffic count reveals that the Goal has not been met, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the trip count to review the results of the count and the TDM strategies then in place for the Property, to discuss alternative strategies to meet the proffered reduction, to discuss the appropriateness of the proffered reduction, and/or to discuss setting an alternative peak hour trip reduction that may be less than 40%. Any alternative peak hour trip reduction may be formalized through an interpretation of these proffers, in which event it will not require formalization through a PCA. The TC shall submit any revisions to the TDM Plan to FCDOT for review and approval within fifteen (15) days following this meeting. FCDOT shall respond within thirty (30) days of its receipt of the revised TDM Plan. Its failure to do so shall be deemed its approval of the revised TDM Plan.

(v) If three (3) consecutive annual trip counts reveal that the Goal has been met, the Applicant may request an FCDOT determination that trip counts may be conducted only biannually or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. In such event, only Annual Reports, as defined below, detailing the programmatic elements in place and yearly TDM expenditures and/or survey results will be required.

(vi) If subsequent trip counts reveal that the Goal is not being met, then the annual counts shall again be required as described in subparagraphs (i) through (v) above. If three (3) consecutive annual trip counts reveal that the Goal has been met, then trip counts shall again be conducted only biannually if requested by the County, or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. In such event, only Annual Reports detailing the programmatic elements in place and yearly TDM expenditures and/or survey results will be required.

(vii) Within six (6) months of full occupancy (80% or more) of space in the GFA Expansion, the Applicant shall resume annual counts in accordance with subparagraphs (i) through (v) above. If three (3) consecutive annual trip counts reveal that the Goal has been met, then trip counts shall again be conducted only biannually if requested by the County, or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. In such event, only Annual Reports detailing the programmatic elements in place and yearly TDM expenditures and/or survey results will be required.

22. Surveying of Tenants. Within one year of approval of RZ/FDP 2012-PR-009 and every three (3) years thereafter, the Applicant shall evaluate the effectiveness of the TDM strategies then in place through a survey of building tenants between March 15 and May 15. In the event a survey achieves a response rate of at least 25% regarding travel behavior and mode split, the Applicant may request that FCDOT accept the survey results in lieu of traffic counts for that year.

23. Reporting. Within one year of approval of the RZ/FDP 2012-PR-009 and annually thereafter by March 1, the effectiveness of the TDM strategies shall be evaluated and reported to FCDOT by the TC in a written report (the "Annual Report"). Each Annual Report

shall describe the previous year's TDM strategic efforts and the effectiveness of the TDM program in reaching the Goal including, as applicable, expenditures, the results of any surveys that may be conducted of employees, traffic counts, and additional items reasonably requested by FCDOT. If the report is not received by FCDOT by March 31, the Applicant will be subject to a penalty of \$75 for each day the report is in arrears.

24. TDM Account. Within thirty (30) days of FCDOT's approval of the TDM Plan, the Applicant shall establish and fund an account ("TDM Account") in an amount appropriate for implementing the TDM Plan for one year. The TDM Account shall be replenished annually as necessary to maintain its original amount. The TDM Account shall be an interest-bearing account with a banking or other financial institution qualified to do business in Virginia. The TDM Account shall be used exclusively for the implementation of the TDM Plan, as it may be amended as necessary. The TDM Account shall include a subaccount called the Incentive Fund that shall be funded with a one-time contribution of \$.005/square foot of GFA Expansion. The Incentive Fund shall be used to provide incentives other than those outlined in the TDM.

25. TDM Remedy Fund. Concurrent with the establishment and funding of the TDM Account, the Applicant shall establish and deposit \$.20/square foot of GFA Expansion into a TDM Remedy Fund. An additional \$.20 will be deposited in the TDM Remedy Fund for each square foot of GFA Expansion space when a first NRUP for such space is issued. Like the TDM Account, the TDM Remedy Fund shall be an interest-bearing account with a banking or other financial institution qualified to do business in Virginia. Moneys from the TDM Remedy Fund shall be drawn on by the Applicant only for implementation of additional strategies determined necessary when the Goal is not being met and sufficient funding for additional TDM strategies is not immediately available in the TDM Account.

After the second trip count, if the Goal is still not being met, a percentage of money in the TDM Remedy Fund shall be used to enhance the TDM Plan. Funds shall be used according to the following scale:

Exceeded Trip Goal	Penalty
1% - 3%	1% of Remedy Fund
3.1% - 6%	2% of Remedy Fund
6.1% - 10%	4% of Remedy Fund
Over 10%	8% of Remedy Fund

Upon achieving the Goal for three (3) consecutive years after the GFA Expansion is occupied, the Applicant may request that any money remaining in the TDM Remedy Fund be released to it.

MISCELLANEOUS

26. Signage. Signage shall be provided in accordance with Article 12 of the Zoning Ordinance.

27. Successor and Assigns. These proffers will bind and inure to the benefit of Applicant and its successors and assigns.

28. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one and the same instrument.

Applicant/Owner of TM 49-1 ((13)) 19B:
PROSPERITY METRO PLAZA OF VIRGINIA, LLC, a
Virginia limited liability company

By: FP Metro Place, LLC,
a Delaware limited liability company,
its Managing Member

By: First Potomac Realty Investment
Limited Partnership, its Sole Member

By: First Potomac Realty Trust,
its General Partner

By: _____

Name: _____

Title: _____

Owner of that portion of Dorr Avenue to be vacated:

THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA

By: _____

Name: _____

Title: _____